

**STATEMENT OF MR. BRUCE A. TOWNSEND
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**Before the Committee on Energy and Commerce
Subcommittee on Oversight and Investigations**

**U.S. House of Representatives
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Good afternoon, Mr. Chairman. On behalf of FedEx Corporation, I would like to thank you as well as the distinguished Ranking Member and the other members of the Subcommittee, for the opportunity to testify today to add our voice of concern regarding the safety of imported prescription drugs. FedEx strongly supports efforts to address the sale of controlled substances over the Internet, particularly international sales.

The FedEx family of companies specializes in fast, reliable transportation services for documents, packages and freight and employs more than 215,000 American workers. FedEx has a large global delivery network reaching more than 220 countries and territories including every address in the U.S. Additionally, FedEx moves more than 5 million packages each day, providing jobs for more than 246,000 employees and contractors worldwide. FedEx Express operates 674 aircraft and FedEx Corporation has revenues of approximately \$30 billion annually.

FedEx has a long and successful history of working cooperatively with law enforcement and other governmental agencies to prevent the transportation of illegal drugs, especially controlled substances. Over the years FedEx has worked diligently with the Drug Enforcement Administration (DEA), Food and Drug Administration (FDA), U.S. Customs, the U.S. Postal Service and others on this issue and will continue to do so.

The recent GAO report on Prescription Drugs (issued September 8, 2005) makes it clear that the proliferation of illegal Internet pharmacies offering controlled substances is a serious and growing

problem. FedEx representatives have worked with a variety of federal, state, and local governmental agencies to address the Internet pharmacy issue over the last two years. Our first meeting on the subject was held on May 13, 2002 with representatives from the DEA, FDA Office of Criminal Investigations, U.S. Customs & Border Patrol and the U.S Postal Inspection Service. At that meeting we offered our assistance to do whatever was required to assist the agencies in their investigations and we described what our capabilities were in that regard. We learned that the agencies were well aware of the problem, working on ways to attack it and appreciative of our offer of assistance.

Since then we have had several additional face-to-face meetings, telephone calls, and exchanged e-mail messages with various members of agencies represented at that original meeting. We have furnished information to law enforcement agencies as appropriate, and have discontinued business with specific customers when requested by those agencies.

We have met and talked with staff of both this committee and of the Senate Permanent Subcommittee on Investigations on numerous occasions since this issue was brought to our attention. Our conclusion from these meetings and our own research is that this is a complicated and difficult law enforcement issue which presents no easy solutions. It will require a new way of thinking about the problem on the part of both the government and the private sector. Traditional government efforts to arrest and criminally prosecute offenders must be supplemented with new government-led initiatives that engage the private sector to help disrupt the offenders' illicit operations.

From our perspective, enforcement is complicated by two primary factors. First, one must consider the nature of the Internet. These so called Internet pharmacies are "virtual entities" and cannot be linked by us to a shipping site unless law enforcement makes that association for us. We have retained a digital asset protection company to analyze the public information available on several thousand Internet pharmacies that are using the FedEx brand on their website without our permission.

Last year we commissioned, NameProtect, Inc., a private company, to help us with this problem. They analyzed approximately 400 million web pages and found 650,310 instances where the FedEx brand was used on the same page as a specified list of the top 22 drug names including some controlled substances.¹ These initial search results contained multiple pages from the same root domain name; however, NameProtect was able to distill these hundreds of thousands of pages down to 12,200 unique domain names. These reported results were as of March 9, 2004.

Because in virtually all instances the actual brick and mortar address of the Internet pharmacy is not listed on the website, we asked NameProtect to obtain whatever public information is available about the owners of these 12,200 unique domain names. They compiled so-called "WhoIs" information on each website registrant, including names, street addresses, telephone numbers and e-mail addresses. Due to the hundreds of different registrars that control their own WhoIs data, however, a complete Reverse WhoIs analysis was not available for this project. Furthermore, because the legal requirements for registering a website are so lax, this registrant

¹ 400 million web pages is less than one-tenth of the actual Internet; therefore, it is estimated these results represent approximately 9.93 percent of the internet pharmacy web pages using the FedEx brand available in a typical Google search. In fact, on March 9, 2004 the same queries were run in Google and generated 6,546,700 hits. However, the number of unique domain names represented in this number cannot be determined using the standard Google search

information is deemed highly unreliable. Clearly, individuals who sell illegal drugs go to great lengths to maintain their anonymity and seldom list their real names or their real addresses. In fact, our experience is that Federal law enforcement agencies have difficulty in tracing the real address through internet address protocols. An electronic copy of all of this information, which runs some 18,000 pages, has been provided to the appropriate government agencies and is available to this committee upon request.

To further complicate this situation, many of these websites are just “fronts” for an Internet pharmacy. Even if we could identify the registrant of one of these websites as a FedEx customer the entity is not likely to be the real owner of the Internet pharmacy. It is more likely the website host is several layers removed from the actual shipper utilizing FedEx services. NameProtect identified many Internet pharmacies that use multiple servers linked to each other, sometimes in different countries and found that the actual drug shipments come from a location that is not linked to the Internet site.

Additionally, we suspect that even if we were able to identify the real owners of the Internet pharmacies they may not be a Fedex customer because (1) our logo may appear on the website but they do not actually use FedEx services, (2) they may ship using a different account name, (3) they may use a third party distributor to maintain inventory at a different brick-and-mortar address, or (4) they may use a drop shipper to arrange for shipping the product via FedEx or some other delivery service. Many of these drop shippers are legitimate businesses serving a variety of online stores and would have no knowledge or reason to know that the underlying transaction is illegal. Therefore, we

would need law enforcement to make the determination of which persons are acting illegally and share those findings with us. We could then use that verified information to take appropriate action up to and including closing an illicit shipper's FedEx account.

A second fundamental problem is even if the identities of foreign Internet pharmacy shippers were readily available our experience indicates that government law enforcement agencies have numerous obstacles to overcome in order to institute a criminal prosecution. In many instances 1) the United States Attorney may not authorize prosecution on small amounts of pharmaceutical drugs; 2) successful prosecution may not be successful in any event without testimony or evidence from the originating foreign country; 3) present reporting requirements for the FDA and Customs and Border Protection may be severely limiting their abilities to process their seizures; and 4) they may lack sufficient manpower to handle the suspected volume of illegal shipments now arriving at our ports.

These obstacles suggest the need for a parallel enforcement strategy aimed at disrupting illicit operations, in addition to pursuing complex and lengthy criminal investigations leading to judicial action. We applaud the work of the men and women of law enforcement who are on the frontlines every day, carrying out a difficult and dangerous mission. The criminal prosecution of drug traffickers is critical to the security of our country and cannot be replaced. However, we would welcome the opportunity to work with these government agencies to find a way to supplement traditional efforts with an approach aimed at disrupting the distribution networks and processes of known offenders.

FedEx Corporation does not tolerate any attempted use of our global network or the FedEx brand for illegal purposes and we take immediate steps to stop it when it comes to our attention. If

we receive information from law enforcement agencies that a particular customer is violating the law, we will assist in the gathering of evidence for the government, pursuant to legal requirements and other regulations, and we will cease accepting packages from that company. No Internet pharmacies are authorized to use the FedEx logo to promote their service. Let me repeat that, NO INTERNET PHARMACIES ARE AUTHORIZED TO USE THE FEDEX LOGO TO PROMOTE THEIR SERVICE. Unfortunately, there are numerous cases where our brand is used without our consent. To the extent possible, we are taking appropriate legal action to stop such activity.

In closing, I want to emphasize that we believe we have a role to play and that we want to be part of what must be a joint effort to shape a new approach to this problem. We have package tracking technology that can be of significant assistance to law enforcement agencies and we can specifically target suspect packages identified by authorities for inspection. FedEx welcomes the opportunity to continue to work with the Congress, law enforcement, and our private sector colleagues to find ways to disrupt these networks that negatively impact the health and safety of our citizens. However, we do not have law enforcement authority and do not have available the tools that would allow us to solve this problem on our own.

Mr. Chairman, thank you for the opportunity to address the subcommittee. I would be happy to respond to Member's questions.